its report stating its findings as to the facts, its conclusions, and its order without the introduction of testimony, and waiving therein any and all right to require the introduction of testimony or the presentation of argument in support of the same, and the Federal Trade Commission having made and entered its report stating its findings as to the facts and its conclusion that the respondent has violated section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," which said report is hereby referred to and made a part hereof: Now, therefore,

It is ordered, That the respondent, his agents, representatives, servants, and employees cease and desist from directly or indirectly applying or using in any manner whatsoever the word "Linen" to collars composed chiefly of celluloid; and further, from advertising or representing in any manner whatsoever to the purchasing public that collars manufactured chiefly from celluloid are composed of "Linen."

It is further ordered, That the respondent make and file with the Commission not later than the 29th day of May, A. D. 1920, a report in detail of the manner and form in which this order has been conformed to.

FEDERAL TRADE COMMISSION

v.

SOPHIE COHN, SAMUEL M. CHAZANOFF, AND B. COUNSELBAUM, COPARTNERS, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF THE GOOD WEAR TIRE & TUBE CO.

COMPLAINT IN THE MATTER OF THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 403.—January 29, 1920.

SYLLABUS.

Where a partnership engaged in the business of cementing and sewing together used and second-hand tires—

(*a*) advertised the same extensively as "Double tread" tires, and sold them to the public throughout the United States without

clearly indicating that said tires were made of second-hand and unserviceable tires; and

(*b*) adopted the name Good Wear Tire & Tube Co. as a trade name, with full knowledge of the fact that the Goodyear Tire & Rubber Co. was then, and had been for a number of years, engaged in the business of manufacturing and selling new automobile tires and tubes, and had, by means of extensive advertising, familiarized the public with its name and the quality of its products; the effect of the adoption by said partnership of a similar name being to cause confusion:

Held, That such false and misleading course of business and advertising, and such simulation, under the circumstances set forth, constituted unfair methods of competition in violation of section 5 of the act of September 26, 1914.

COMPLAINT.

The Federal Trade Commission, having reason to believe from a preliminary investigation made by it that Leo Cohen and B. Counselbaum, doing business under the firm name and style of The Good Wear Tire & Tube Co., hereinafter referred to as respondents, have been, and are, using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, issues this complaint, stating its charges in that respect on information and belief, as follows:

PARAGRAPH 1. That the respondents, Leo Cohen and B. Counselbaum, are now and since March, 1919, have been copartners doing business under the firm name and style of the Good Wear Tire & Tube Co., having their principal office and place of business located in the city of Chicago, State of Illinois, and are now and have been since the month of March, 1919, engaged in the business of selling automobile tires and tubes throughout the States of the United States, the Territories thereof, the District of Columbia, and foreign countries, in direct competition with other persons, firms, copartnerships, and corporations similarly engaged.

PAR. 2. That in the conduct of their business, respondents purchase second hand or used automobile tires in the various States and Territories of the United States and transport the same through other States and Territories of the United States in and to the city of Chicago, State of Illinois, where the respondents manufacture automobile tires so sold by them by cementing two of such used or secondhand automobile tires together, and then, by sewing two such tires together, when such tires are sold by means of catalogues, circulars, and advertisements, and without such catalogues, circulars, or advertisements, stating that such tires are manufactured from used or secondhand tires; but such catalogues, circulars, and advertisements are worded in such manner as to lead the purchasing public to believe that such tires, sold by respondents, are new and unused tires, with the effect of securing to the respondents an unfair advantage over their competitors, who are engaged in the manufacture and sale of new and unused tires, and with the effect of securing to the respondents an unfair advantage over their competitors engaged in the business of selling reconstructed secondhand or used tires.

PAR. 3. That the Goodyear Tire & Rubber Co. is now and has been for more than one year last past a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal factory and place of business located in the city of Akron, in said State, and with a branch office in the city of Chicago, and with branch offices in other cities of the United States, and engaged in the business of manufacturing new automobile tires and tubes and selling the same throughout the various States and Territories of the United States and the District of Columbia and foreign countries; that said Goodyear Tire & Rubber Co., by means of extensive advertising in catalogues, circulars, newspapers, and magazines, has caused its products to be well known in the trade and to be of a certain quality.

PAR. 4. That the respondents, Leo Cohen and B. Counselbaum, well knowing that the automobile tires and tubes manufactured by the Goodyear Tire & Rubber Co. had been

for years extensively advertised throughout the United States, and well knowing that such products of the Goodyear Tire & Rubber Co. had acquired a certain reputation for quality, and well knowing that the said Goodyear Tire & Rubber Co. had a branch office located in the said city of Chicago, adopted as their trade name Good Wear Tire & Tube Co., which trade name so closely resembles and simulates the name Goodyear Tire & Rubber Co. as to induce and lead the public into believing that in doing business with the Good Wear Tire & Tube Co. they are dealing with the Goodyear Tire & Rubber Co.; that the respondents, trading as the Good Wear Tire & Tube Co., adopted in their advertisements a style and general scheme of the advertisements extensively used by the Goodyear Tire & Rubber Co. for many years, with the effect of causing the public to believe that the automobile tires and tubes advertised for sale in such advertisements were the products of the Goodyear Tire & Rubber Co., and with the further effect of securing to themselves the benefit and advantage of extensive advertising previously done by the Goodyear Tire & Rubber Co., and with the further effect, among others, of causing confusion and embarrassment to the Goodyear Tire & Rubber Co. in the operation of its business.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

The Federal Trade Commission having issued and served its complaint, in which it is alleged that the above-named respondents have been and now are using unfair methods of competition in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," and it appearing that a proceeding by it in respect thereof would be to the interest of the public, and fully stating its charges in this respect, and the respondent, B. Counselbaum, having entered his appearance, and Sophie Cohn and Samuel M. Chazanoff, having also entered their appearance as respondents herein, and having filed their answer admitting cer-

tain allegations herein contained and denying others, and thereafter having made and executed an agreed statement of facts, which has been filed herein, and in which it is stipulated and agreed by the respondents that the Federal Trade Commission shall take such agreed statement of facts as evidence in this case in lieu of testimony and shall forthwith proceed upon such agreed statement of facts to make its report, findings as to the facts and conclusion, and such order or orders as it may deem proper to enter thereon, the respondents hereby forever waiving and relinquishing any and all right to the introduction of other and further testimony, the Federal Trade Commission now makes and enters this its report, stating its findings as to the facts and its conclusions, as follows:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. That the respondents, Leo Cohn and B. Counselbaum, during the period between the months of March and July, 1919, were copartners doing business under the firm name and style of The Good Wear Tire & Tube Co.; that in the month of July, 1919, the said Leo Cohn retired from said partnership and was succeeded by Sophie Cohn and Samuel M. Chazanoff, since which time they, together with the respondent, B. Counselbaum, have continued to do business as a copartnership trading under the said firm name and style of The Good Wear Tire & Tube Co., having their principal office and place of business located at 2307-2309 South Indiana Avenue, in the city of Chicago, State of Illinois, and engaged in the business of manufacturing and selling remade or reconstructed automobile tires and in the shipment thereof from their place of business in Chicago, in the State of Illinois, to purchasers thereof in other States and Territories of the United States, in direct competition with other persons, firms, copartnerships, and corporations engaged in the manufacture of similar automobile tires and of automobile tires made from new and unused materials.

PAR. 2. That in the conduct of their business the respondents, Sophie Cohn, Samuel M. Chazanoff, and B. Counsel-

baum, purchase second-hand and unserviceable automobile tires in various States of the United States, and transport the same through other States and to the city of Chicago, State of Illinois, where the respondents manufacture automobile tires by cementing and sewing together two of such used and second-hand tires, which the respondents then designate as "Double tread" tires, by which name they are extensively advertised and sold to the public throughout the United States without other words of description which would clearly set forth the nature of the materials of which they are composed, or that they are made out of second-hand and unserviceable tires, as aforesaid; that the effect of the use of such designation without further words of description tends to mislead the purchasing public to believe that such tires are new and unused tires and manufactured from new and unused material.

PAR. 3. That the Goodyear Tire & Rubber Co. is now, and has been for more than one year last past, a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal factory and place of business located in the city of Akron, in said State, and with a branch office at 1544–1554 South Indiana Avenue, in the city of Chicago, State of Illinois, and with branch offices in other cities of the United States, and engaged in the business of manufacturing new automobile tires and tubes and selling the same throughout the various States and Territories of the United States and the District of Columbia and in foreign countries; that the said Goodyear Tire & Rubber Co., by means of extensive advertising in catalogues, circulars, newspapers, and magazines, has caused its products to be well known in the trade and to be of a certain quality.

PAR. 4. That the respondents Sophie Cohn, Samuel M. Chazanoff, and B. Counselbaum, with full knowledge of the facts set forth in paragraph 3 hereof, have at all times herein mentioned continued to use as their trade name "The Good Wear Tire & Tube Co.," which trade name so closely resembles the name of the Goodyear Tire & Rubber Co. that the effect thereof has been and is to cause confusion and

embarrassment to the Goodyear Tire & Rubber Co. in the conduct and operation of its business.

CONCLUSIONS.

That the methods of competition set forth in the foregoing findings as to the facts, under the circumstances therein set forth, are unfair methods of competition in commerce in violation of the provisions of section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

The Federal Trade Commission having issued and served its complaint herein upon Leo Cohn and B. Counselbaum as copartners, doing business under the firm name and style of The Good Wear Tire & Tube Co., and Sophie Cohn, Samuel M. Chazanoff, and B. Counselbaum having entered their appearance as respondents herein and filed their answer, and thereafter having made, executed, and filed an agreed statement of facts in which it was stipulated that the Federal Trade Commission should take such agreed statement of facts as the evidence in this case and in lieu of testimony, and should further thereupon make and enter its report, findings as to the facts, and conclusions and such order or orders as it might deem proper to enter thereon, the respondents waiving any and all right to the introduction of other and further testimony, and the Federal Trade Commission having made and entered its report, stating its findings as to the facts and its conclusions, and that the above-named respondents had violated section 5 of an act of Congress approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," which said report is hereby referred to and made a part hereof; and the Federal Trade Commission having entered its order amending the complaint herein by the substitution of Sophie Cohn and Samuel M. Chazanoff as respondents in the place and stead of Leo Cohn: Now, therefore,

It is ordered, That the respondents and each of them cease and desist from designating and describing the automobile tires manufactured by them by cementing and sewing together two used and second-hand tires, and which are advertised and sold by them in interstate commerce, by the words "Double tread," without the use of other words which will clearly and unmistakably show that said tires are not made from new and unused materials, but are remade and reconstructed tires.

And it is further ordered, That the respondents and each of them cease and desist from doing business in interstate commerce under the firm name and style of The Good Wear Tire & Tube Co., or any similar name designed and calculated to simulate the corporate name of the Goodyear Tire & Rubber Co.

FEDERAL TRADE COMMISSION

v.

MOORE & TIERNEY.